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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Albania, Australia, Austria, Belgium, Bulgaria, Canada, Central African Republic, Chile, Colombia, Costa Rica, Czechoslovakia, Denmark, Egypt, Finland, France, Gambia, Germany, Greece, Hungary, Iceland, Iran (Islamic Republic of), Ireland, Italy, Japan, Latvia, Liechtenstein, Luxembourg, Madagascar, Malaysia, Morocco, Netherlands, Norway, Pakistan, Panama, Peru, Poland, Portugal, Samoa, Saudi Arabia, Slovenia, Spain, Sweden, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America: revised draft resolution

The situation of human rights in the territory of the former Yugoslavia

The General Assembly,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, 1/ the International Covenants on Human Rights, 2/ the International Convention on the Elimination of All Forms of Racial Discrimination, 3/ the Convention on the Prevention and Punishment of the Crime of Genocide, 4/ the Convention against Torture and Other Cruel,

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1/ Resolution 217 A (III).

2/ See resolution 2200 A (XXI), annex.

3/ Resolution 2106 A (XX), annex.

4/ Resolution 260 A (III).

Inhuman or Degrading Treatment or Punishment, 5/ and international humanitarian law, including the Geneva Conventions of 12 August 1949 6/ and the additional protocols thereto of 1977, 7/

Deeply concerned at the human tragedy in the territory of the former Yugoslavia, and at the continuing massive and systematic violations of human rights occurring in most of that territory, particularly in the areas of Bosnia and Herzegovina under Serbian control,

Recalling Security Council resolutions 771 (1992) of 13 August 1992, 780 (1992) of 6 October 1992 and 787 (1992) of 16 November 1992, which inter alia, demand that all parties and others concerned in the former Yugoslavia immediately cease and desist from all breaches of international humanitarian law, and pursuant to which the Secretary-General has established a Commission of Experts to examine and analyse information relating to violations of humanitarian law being committed in the territory of the former Yugoslavia,

Recalling its resolution 46/242 of 25 August 1992, which demands an end to the fighting, condemns the massive violations of human rights and international humanitarian law occurring in the territory of the former Yugoslavia, in particular the abhorrent practice of "ethnic cleansing", rejects recognition of the acquisition of territory by force and demands the safe, unconditional and honourable repatriation of refugees and deportees to their homes,

Recalling also its resolution [...] condemning unreservedly "ethnic cleansing", and reiterating its conviction that those who commit or order the acts of "ethnic cleansing" are individually responsible and should be brought to justice,

Recalling that the Commission on Human Rights at its first special session of 1992 to consider the situation of human rights in the former Yugoslavia, adopted resolution 1992/S-1/1, in which it condemned in the strongest terms all violations of human rights within the territory of the former Yugoslavia, called upon all parties to cease those violations immediately and to take all necessary steps to ensure full respect for human rights and fundamental freedoms and humanitarian law and requested its Chairman to appoint a special rapporteur to investigate the human rights situation in the territory of the former Yugoslavia,

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5/ Resolution 39/46.

6/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

7/ Ibid., vol. 1125, Nos. 17512 and 17513.

Noting with appreciation the efforts of the Special Rapporteur, as well as those of the Chairman of the Working Group on Arbitrary Detention, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, the Special Rapporteur on the Question of Torture, and the Representative of the Secretary-General on Internally Displaced Persons, who accompanied him on one or both of his missions,

Welcoming the decision by the Commission on Human Rights to meet again in special session to consider the reports of the Special Rapporteur,

Encouraging the continuing efforts made in the framework of the International Conference on the Former Yugoslavia to find a peaceful solution to the situation in the former Yugoslavia, including the proposals made by the Co-Chairmen of its Steering Committee for the Constitution for the Republic of Bosnia and Herzegovina designed to protect human rights on the basis of fundamental human rights instruments,

Welcoming the consideration by the Human Rights Committee of the special reports from the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), Croatia, and Bosnia and Herzegovina on the human rights situation in those parts of the territory of the former Yugoslavia, with respect to their obligations under the International Covenant on Civil and Political Rights,

Noting with concern the comments adopted by the Human Rights Committee following consideration of those special reports at its meeting held on 6 November 1992,

Welcoming the effort by the Conference on Security and Cooperation in Europe to prevent further human rights violations and its missions dispatched to the territory of the former Yugoslavia, including missions of long duration to Kosovo, Vojvodina and Sandjak, where the human rights situation remains a cause of great concern,

Gravely concerned at the human rights situation in the territory of the former Yugoslavia, and in particular at the continuing, odious practice of "ethnic cleansing", which is the direct cause of the vast majority of human rights violations there and whose principal victims are the Muslim population virtually threatened with extermination,

Alarmed that, although the conflict in Bosnia and Herzegovina is not a religious conflict, it has been characterized by the systematic destruction and profanation of mosques, churches and other places of worship, as well as other sites of cultural heritage, in particular in areas currently or previously under Serbian control,

1. Commends the Special Rapporteur for his reports on the situation of human rights in the territory of the former Yugoslavia;

2. Expresses its grave concern at the Special Rapporteur's detailed reports of violations of human rights and humanitarian law in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and at his conclusion that most of the territory of the former Yugoslavia, in particular Bosnia and Herzegovina, is the scene of massive and systematic violations of human rights and grave violations of humanitarian law;

3. Condemns in the strongest possible terms the abhorrent practice of "ethnic cleansing", and recognizes that the Serbian leadership in territories under their control in Bosnia and Herzegovina, the Yugoslav Army and the political leadership of the Republic of Serbia bear primary responsibility for this reprehensible practice, which flagrantly violates the most fundamental principles of human rights;

4. Condemns also the specific violations identified by the Special Rapporteur, most of which are caused by "ethnic cleansing", and which include killings, torture, beatings, rape, disappearances, destruction of houses, and other acts or threats of violence aimed at forcing individuals to leave their homes, as well as reports of violations of human rights in connection with detention;

5. Condemns further the indiscriminate shelling of cities and civilian areas, the systematic terrorization and murder of non-combatants, the destruction of vital services, the besieging of cities and the use of military force against civilian populations and relief operations by all sides, recognizing that the main responsibility lies with Serbian forces;

6. Demands that all parties involved in the former Yugoslavia, and especially those most responsible, cease these violations immediately, take appropriate steps to apprehend and punish those who are guilty of perpetrating or authorizing the violations, including those violations in connection with detention and take all necessary measures to ensure the enjoyment of human rights and fundamental freedoms, in accordance with their obligations under the Geneva Conventions of 1949, 6/ and the additional protocols thereto of 1977, 7/ the International Covenants on Human Rights, 2/ and other international human rights instruments;

7. Reaffirms that all persons who perpetrate or authorize crimes against humanity, and other grave breaches of international humanitarian law are individually responsible for those breaches and that the international community will exert every effort to bring them to justice, and calls on all parties to provide all pertinent information to the Commission of Experts in accordance with Security Council resolution 780 (1992);

8. Expresses deep concern at the number of disappearances and missing persons in the former Yugoslavia, and calls on all parties to make all possible efforts to account for those missing;

9. Demands an immediate end to the practice of "ethnic cleansing", and in particular that the Government of the former Federal Republic of Yugoslavia (Serbia and Montenegro) use its influence with the self-proclaimed Serbian authorities in Bosnia and Herzegovina and Croatia to bring the practice of "ethnic cleansing" to an immediate end and to reverse the effects of that practice;

10. Reaffirms that States are to be held accountable for violations of human rights which their agents commit upon the territory of another State;

11. Expresses its complete support for the victims of these violations, reaffirms the right of all persons to return to their homes in safety and dignity, considers invalid all acts made under duress affecting ownership of property and other related questions and recognizes the right of victims of "ethnic cleansing" to receive reparation for their losses;

12. Condemns in particular the violations of human rights and humanitarian law in connection with detention, including killings, torture and the systematic practice of rape, and calls upon all parties in the former Yugoslavia to close immediately all detention centres not in compliance with the Geneva Conventions, and to release immediately all persons arbitrarily or illegally detained;

13. Demands that the International Committee of the Red Cross, the Special Rapporteur, the Conference on Security and Cooperation in Europe missions and other relevant international humanitarian organizations be granted immediate, unimpeded and continued access to all camps, prisons and other places of detention within the territory of the former Yugoslavia;

14. Expresses its grave concern at the Special Rapporteur's report on the dangerous situation in Kosovo, Sandjak and Vojvodina, and urges all parties there to engage in a meaningful dialogue under the auspices of the International Conference on the former Yugoslavia, to act with utmost restraint and to settle disputes in full compliance with human rights and fundamental freedoms, and calls on the Serbian authorities to refrain from the use of force and immediately stop the practice of "ethnic cleansing" and to respect fully the rights of persons belonging to ethnic communities or minorities, in order to prevent the extension of the conflict to other parts of the former Yugoslavia;

15. Calls upon the parties to implement immediately all commitments made in the framework of the International Conference on the former Yugoslavia and to work together to ensure the success of the Conference, and welcomes in this regard the acceptance by the government of Bosnia and Herzegovina of the constitutional proposals of the Co-Chairmen as a basis for negotiations;

16. Endorses the resolution adopted by the Commission on Human Rights at its second special session of 1992 addressing the reports of the Special Rapporteur, in particular its call for all States to consider the extent to which the acts committed in Bosnia and Herzegovina and in Croatia constitute

genocide, in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide; 4/

17. Calls upon all United Nations bodies, including the United Nations Protection Force and the specialized agencies and invites Governments and informed intergovernmental and non-governmental organizations to cooperate fully with the Special Rapporteur, and in particular to provide him on a continuing basis with all relevant and accurate information in their possession on the situation of human rights in the former Yugoslavia;

18. Urges all States, United Nations bodies, including the specialized agencies as well as the Special Rapporteur and, as appropriate, international humanitarian organizations, to make available substantiated information in their possession or submitted to them relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions being committed in the territory of the former Yugoslavia to the Commission of Experts pursuant to Security Council resolution 780 (1992);

19. Urges all States and relevant organizations to consider implementation of the recommendations of the Special Rapporteur, and in particular:

(a) Welcomes the Special Rapporteur's call for the opening of humanitarian relief corridors to prevent the imminent death of tens of thousands of persons in besieged cities;

(b) Welcomes the Security Council's invitation in its resolution 787 (1992) to the Secretary-General, in consultation with the United Nations High Commissioner for Refugees and other relevant agencies, to study the possibility and requirements for the promotion of safe areas and the Special Rapporteur's recommendation for the creation of such security zones for the protection of displaced persons, while keeping in mind that the international community must not acquiesce in demographic changes caused by "ethnic cleansing";

(c) Draws the attention of the Commission of Experts established by Security Council resolution 780 (1992) to the need for an immediate and urgent investigation by qualified experts of a mass grave near Vukovar and other mass grave sites and places where mass killings are reported to have taken place, and requests the Secretary-General, within the overall budgetary framework of the United Nations, to make available all necessary resources for this undertaking and for the other work of the Commission;

20. Requests the Secretary-General to take all necessary steps to ensure the full and effective coordination of all United Nations bodies to implement the present resolution, and calls upon those bodies concerned with the situation in the territory of the former Yugoslavia to coordinate closely with the Special Rapporteur and the Commission of Experts;

21. Also requests the Secretary-General, within the overall budgetary framework of the United Nations, to make all necessary resources available for the Special Rapporteur to carry out his mandate and in particular to provide him with a number of staff based in the territories of the former Yugoslavia adequate to ensure effective continuous monitoring of the human rights situation there and coordination with other United Nations bodies involved, including the United Nations Protection Force;

22. Further requests the Secretary-General to give all other necessary assistance to the Special Rapporteur to enable him to fulfil his mandate;

23. Decides to continue its examination of the situation of human rights in the former Yugoslavia during its forty-eighth session under the item entitled "Human rights questions".